

20 May 2016

Submission on the: Exposure Draft: Incorporated Societies Bill
Made to the: Ministry of Business, Innovation & Employment (MBIE)
From: The Arts Council of New Zealand Toi Aotearoa (Creative New Zealand)

1. Creative New Zealand welcomes the opportunity to consider and make submissions on MBIE's **Exposure Draft: Incorporated Societies Bill**.

2. The key contact person for matters relating to this submission:

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Overview

3. Creative New Zealand **supports** the intent and purpose of this new Incorporated Societies Bill.
4. Creative New Zealand serves the statutory function of advocating and developing the arts in New Zealand as outlined under section 3(2)(d)(iv) and (v) of the Arts Council of New Zealand Toi Aotearoa Act 2014. This includes advocating on behalf of arts entities that are registered as incorporated societies.
5. Broadly, we're aware that over the years many incorporated societies in the arts sector have moved away from the model, towards trust structures, because of the inadequacies of the 1908 Act. In modernising the regime, the proposed changes will hopefully restore some of the legitimacy and utility of the model for arts sector organisations.
6. Most incorporated societies, particularly those in the arts sector, only exist thanks to the tireless effort and passion of dedicated volunteers willing to donate their time and energy to act as officers. We support the exposure draft's assistance in clarifying the roles and responsibilities of officers and giving guidance for the resolution of disputes, conflicts of interest, complaints and grievances.
7. As noted by the Auckland District Law Society, *'members generally want to do their best for their society, are happy to follow rules, and would welcome greater certainty both in terms of internal processes and rights of recourse outside the society'*. Providing this clarity will ensure officers are able to spend their time advancing their society's purposes instead of being constrained by time-consuming legal ambiguity.
8. Creative New Zealand agrees that societies should be guided by strong legislation while remaining free from inappropriate government interference. We believe the exposure draft strikes a reasonable balance in this respect.

9. Creative New Zealand also believes that strengthening the requirement that *societies must not operate for financial gain* is important. As such, the introduction of section 161 (*Division of surplus assets on winding up*) ensures that:
 - no perverse incentives exist for societies to be dissolved for the financial benefit of their current members
 - the dissolution of a society doesn't remove the remaining assets of that society from the community.
10. Creative New Zealand notes that MBIE has assured stakeholders that the implementation of the new Act, and the transition periods as outlined in the exposure draft, will ensure incorporated societies have ample time to comply with their new obligations.
11. We believe that it's vital for MBIE and other relevant government agencies to supply adequate assistance to ensure the transition for societies between the 1908 Act and the new regime is as painless as possible.

Background on Creative New Zealand

12. Creative New Zealand is New Zealand's arts development agency, responsible for delivering government support for the arts. We are an autonomous Crown entity continued under the Arts Council of New Zealand Toi Aotearoa Act 2014. We receive our funding through Vote: Arts, Culture and Heritage, and the New Zealand Lottery Grants Board. In 2014/15, we invested over \$41.5 million in the arts sector nationally.
13. Creative New Zealand's Strategic Plan 2013–16, Te Mahere Rautaki 2013–16, identifies the four outcomes we are seeking to achieve on behalf of all New Zealanders:
 - New Zealanders participate in the arts
 - high-quality New Zealand art is developed
 - New Zealanders experience high-quality arts
 - New Zealand arts gain international success.
14. Creative New Zealand contributes to achieving these outcomes by delivering programmes in the following areas:
 - funding for artists, practitioners and organisations
 - capacity-building for artists, practitioners and organisations
 - advocacy for the arts.

Thank you again for the opportunity to comment, and please don't hesitate to contact me if you wish to discuss this submission further.

Ngā mihi nui
Withheld

David Pannett
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